

**VOLUNTARY CLEANUP CONTRACT  
14-6251-NRP**

**IN THE MATTER OF  
CIGAR FACTORY SITE, CHARLESTON COUNTY  
and  
CIGAR FACTORY DEVELOPMENT, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Cigar Factory Development, LLC, with respect to the Property located at 701 East Bay Street (4.1 acres), and 47 and 53 Columbus Street (0.27 acres), in Charleston, South Carolina. The Property totals approximately 4.37 acres identified by Tax Map Serial Numbers 4590601040, 4590604013 and 4590604012. In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of December 23, 2013, and any amendments thereto, by Cigar Factory Development, which is incorporated into this Contract and attached as Appendix A.

**AUTHORITY**

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 et. seq. (as amended); the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et. seq. (as amended), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq., and the South Carolina Pollution Control Act, § 48-1-10 et. seq.

**DEFINITIONS**

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §44-56-710 et. seq. (as amended), and if not set forth therein, shall have the meaning assigned to them pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et. seq. (as

amended), the S.C. Pollution Control Act, S.C. Code Ann. § 48-1-10, et. seq. (as amended), or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et. seq.

- A. "CFD" means Cigar Factory Development, LLC.
- B. "Beneficiaries" means CFD's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site
- C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.
- D. "Contract" means this Voluntary Cleanup Contract.
- E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- F. "Existing Contamination" shall mean any Contamination present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of CFD or its Beneficiaries.

- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause Contamination upon release to the environment.
- I. "Site" means all areas where a contaminant has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA section 101 (28).
- J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

## FINDINGS

2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. Owners and Operators: The owners and operators of the Property include the following:

Tract 1: TMS #459060101040, 4.1 acres

Charleston Manufacturing Company	1882 to 1912
American Tobacco Company	1912 to 1973
Control Data Properties Inc.	1973 To 1992
701 East Bay Inc.	1992 to 1993
Port City Limited Partnership	1993 to 2005
IGL Two, LLC	2005 to 2007
TSO Cigar Factory, LLC	2007 to Present

Tract 2: TMS # 4590604612, 4590604013, 0.27 acres

As to only Parcel 012 – Jerry Moskos & Sons	1946 to 1961
As to only Parcel 012 – Moskos Brothers, Inc.	1961 to 1983
As to only Parcel 013 – Jerry Moskos & Sons	1952 to 1969
As to only Parcel 013 – Moskos Brothers, Inc.	1969 to 1983

The following entries are as to Parcels 012 and 013:

Ross J. Moskos, Voula S. Moskos and Helen G. Moskos	1983 to 1984
City of Charleston	1984 to 1985
Columbus Partners	1985 to 1986
Columbus – East Bay Associates	1986 to 1993
City of Charleston	1993 to 1999
Columbus Street, LLC	1999 to 2005
IGL Two, LLC and JRC D.I. Properties Limited Partnership (JRC sold percentage interests)	2005 to 2006
IGL Two, LLC and JRC D.I. Properties Limited Partnership, Ross Cigar Factory LLC, Smith Cigar Factory LLC, Pompizzi Cigar Factory LLC, ONG Cigar Factory LLC and Agostini Cigar Factory LLC	2006 to 2007
TSO Cigar Factory, LLC	2007 to Present

- B. Property and Surrounding Areas: The Property is located within the Charleston city limits in an area with a mix of residential, commercial and industrial uses. The two tracts of land that make up the Property are separated by Columbus Street. Both tracts are bounded generally by East Bay Street and the South Carolina Ports Authority Columbus Street Terminal to the east, residential property to the south, Drake Street with residential property and Trident

Technical College beyond to the west, and Blake Street and residential property to the north.

C. Tract 1 (4.1 acres) was first developed as a cotton mill in 1882. Sanborn maps identify buildings used for weaving, carding, and spinning, as well as a repair shop, painting area, engine room, boiler room and coal heap. The mill expanded during the late 1800s and early 1900s with additional buildings, a second engine room, and larger boiler room. The facility continued operation as a textile mill until approximately 1902 when the American cigar company occupied the Property, and then purchased the Property in 1912. The 1944 Sanborn Map identifies Tract 1 as the American Tobacco Company and shows expansion of the facility to include new buildings for tobacco processing and storage including a building in the central area of the Property labeled as a "fumigator". A railroad spur from East Bay Street into the central area of the Property is also noted. Sanborn maps from the 1950's, 1960's and 1970's identify an engine room, boiler room, a machine shop, and a welding booth in the north central area of the Property in generally the same area where these types of activities were identified in previous Sanborn maps. The 1950's maps also identify a paint storage building in the northern portion of the Property, and a transformer area on the west side of Building 1.

The American Tobacco Company closed in the early 1970's, following which the buildings on Tract 1 were used for general storage. Under new ownership in the early 1980's, the Property was added to the National Register of Historic Places and renovated for a variety of office and commercial uses. Renovation activities included removal of a 20,000-gallon fuel oil above ground storage tank (AST) and several PCB containing transformers. Tenants on the Property in the 1980's included a chemical manufacturing company specializing in janitorial chemicals until approximately 1984. A culinary arts school occupied the Property from the

mid-1980's until approximately 2006. At that time, further renovations were started to convert the buildings into condominiums, but these renovations were not completed.

- D. Historical use of Tract 2 has been primarily commercial. Sanborn maps show a residence and three stores on Tract 2 of the Property beginning in 1944. By 1973, a drycleaner, a store, and a parking lot are identified on Tract 2. From approximately 1984 to present, Tract 2 has been a parking area.
- E. Environmental assessments of the Property were conducted in 1989 (Geraghty and Miller), 1999 (Phase II Environmental Site Assessment, Turner Hart and Hickman, January 21, 1999), 2005 (Phase I Environmental Site Assessment, Terracon, January 2005 and Limited Site Investigation, Terracon, April 8, 2005), 2007 (Phase I Environmental Site Assessment, Terracon, February 2007) and 2013 (Phase I Environmental Site Assessment, Mid-Atlantic Associates, Inc., November 18, 2013). The 1989 assessment included soil and groundwater sampling on Tract 1 of the Property. This report documents tetrachloroethylene (PCE) in soil (81µg/kg) and groundwater (6 µg/L) near the former location of the janitorial chemical company, and benzene in groundwater (21 µg/L) in another area of Tract 1. Tract 2 of the Property was evaluated in a 1999 report that included collection of one groundwater and one soil sample. No VOCs or SVOCs were detected in groundwater, but PCE was detected in soil at a concentration slightly above Soil Screening Levels for Protection of Groundwater, but below EPA Regional Screening Levels for Resident Soil. In 2005, soil and groundwater samples were collected from three locations on Tract 1 and one location on Tract 2. All samples were analyzed for VOCs. Results identified naphthalene in soil and groundwater on Tract 1 at concentrations below applicable regulatory and screening levels.

F. Applicant Identification: CFD is a State of South Carolina limited liability company with its principal place of business located at 950 Joseph E. Lowery Boulevard, Suite 18, Atlanta, GA, 30318. CFD affirms that it has the financial resources to conduct the response action pursuant to this Contract.

G. Proposed Redevelopment: CFD will acquire the Property and intends to rehabilitate former mill building for commercial retail and office uses on all floors. CFD intends to use Tract 2 as a parking lot.

#### BONA FIDE PROSPECTIVE PURCHASER STATUS

3. CFD certifies that it and its members are not a current owner of the Property, or parent, successor or subsidiary of a current or past owner of the Property; are not a Responsible Party for the site, or a parent, successor or subsidiary of a Responsible Party for the site; and have not had any involvement with the Property in the past other than activities performed in anticipation of redevelopment and participation in the Voluntary Cleanup Program. CFD also certifies that it and its members are eligible to be a Bona Fide Prospective Purchaser for the Property.

#### RESPONSE ACTION

4. CFD agrees to conduct the response actions specified in the sub-paragraphs below. An initial Work Plan shall be submitted by CFD, or its designee, within thirty (30) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A Report of the assessment results shall be submitted by CFD, or its designee in accordance with the schedule provided in the initial Work Plan. CFD acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. CFD agrees to perform the additional assessment and/or corrective action consistent with the intended uses of the Property under the purview of this

Contract; however, CFD may seek an amendment of this Contract to clarify its further responsibilities. CFD shall perform all actions required by this Contract, and any related actions of CFD's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

- 1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.
- 2). The Work Plan(s) shall be submitted to the Department in the form of one hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).
- 3). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes, regulations, and permitting requirements (e.g., stormwater management and waste disposal regulations). CFD shall identify and obtain the applicable permits before beginning any action.
- 4). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 5). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment and/or corrective measures activities consistent with the following:
  - a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.
  - b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71, the South Carolina Well Standards. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.



- c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:
    - i. the full EPA Target Analyte List (TAL);
      - i). EPA Target Analyte List excluding cyanide (TAL-Metals);
    - ii. the full EPA Target Compound List (TCL);
      - i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);
      - ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);
      - iii). EPA Target Compound List Pesticides (TCL-Pesticides);
      - iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).
  - d). All analytical methods shall use appropriate detection levels to allow comparison to the media-specific screening criteria listed in the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" in effect at the time of sampling. The applicable Protection of Groundwater SSL for soil samples shall be the "MCL-Based SSL", if listed. If the applicable screening criteria are lower than achievable detection levels, the analytical method shall use the lowest achievable detection levels.
- 6). The Work Plan shall include the names, addresses, and telephone numbers of CFD's consulting firm(s), analytical laboratories, and CFD's contact person for matters relating to this Contract and the Work Plan.
- a). The analytical laboratory shall possess applicable Certification defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.

- b). CFD shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan.
- 7). The Department will notify CFD in writing of approvals or deficiencies in the Work Plan.
- 8). CFD, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan by the Department.
- 9). CFD shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan by the Department.
- 10). CFD shall inform the Department at least three (3) working days in advance of all field activities conducted pursuant to the Work Plan, and shall allow the Department, or its authorized representatives, to take duplicates of any samples if desired.
- 11). CFD shall reasonably preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. CFD shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

**B. Report Logistics**

- 1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.

- 2). The Report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan. The Report shall also include tables and figures to summarize all data, a surveyed map documenting sampling locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.
- 3). All Report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire Report on a compact disk (in .pdf format).

C. Assess Waste Materials and Segregated Sources:

- 1). CFD shall characterize for disposal any Waste Material and Segregated Sources that may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with applicable regulations..
- 2). Upon discovery of any Segregated Source that has not yet released all contents to the environment, CFD shall expeditiously stabilize or remove the Segregated Source from the Property
- 3). CFD shall immediately notify the Department if a release of Contamination occurs as a result of its assessment, stabilization or removal actions. CFD shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

- 1). CFD shall map all public and private wells used for drinking water supply within a one-half mile radius of the Property, and wells used for irrigation or other non-drinking water use within a one-quarter mile radius.

- 2). CFD shall report all known and available information to the Department to allow the Department to secure permission to sample the wells. At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and, 3) Telephone number, if publicly available or otherwise known to CFD, of the well owner or occupant of the residence served by the well.

E. Assess soil quality across the Property:

- 1). CFD shall collect and analyze a minimum of sixteen (16) soil samples from eight (8) locations on the Property. CFD shall collect one surface soil sample (0-1 foot below ground surface) and one subsurface soil sample (2 foot minimum depth) from each of the following locations, unless otherwise indicated below:

**Tract 1**

- a). Surface and subsurface soil samples shall be collected from a presumed background location. Each soil sample shall be analyzed for EPA TAL metals.
- b). Surface and subsurface soil samples shall be collected from two (2) locations on the east side of Buildings 4 and 5 in the vicinity of former operations of a janitorial chemical company and former above ground storage tank (s). The surface soil samples shall be analyzed for TAL-Metals and TCL SVOCs. The subsurface sample shall be analyzed for TAL-Metals, and TCL VOCs and SVOCs.
- c). Surface and subsurface soil samples shall be collected from two (2) locations on the east side of Building 1 north of the former water tower/elevator in the vicinity of the former fumigator, transformers and coal pile. All samples shall be analyzed for the full EPA TAL and TCL.
- d). Surface and subsurface soil samples shall be collected from one (1) location in the vicinity of the former PCB containing transformer area on

the east side of Building 1 south of the former water tower/elevator. The surface soil sample shall be analyzed for TAL-Metals and TCL SVOCs and PCBs. The subsurface sample shall be analyzed for TAL-Metals, and TCL VOCs and SVOCs and PCBs.

- e). Surface and subsurface soil samples shall be collected from one (1) location in the southeastern corner of Tract 1. The surface soil sample shall be analyzed for TAL-Metals and TCL SVOCs. The subsurface sample shall be analyzed for TAL-Metals, and TCL VOCs and SVOCs.

**Tract 2**

- f). Surface and subsurface soil samples shall be collected from one (1) location on Tract 2. The surface soil sample shall be analyzed for TAL-Metals and TCL SVOCs. The subsurface sample shall be analyzed for TAL-Metals, and TCL VOCs and SVOCs.
- 2). Soil quality results shall be compared to the Residential and Industrial Screening Levels and to the applicable Protection of Groundwater SSL.

**F. Assess groundwater quality:**

- 1). CFD shall assess groundwater quality and flow direction across the Property. Assessment shall include samples from a minimum of three monitoring wells. Monitoring well locations shall be as follows:
  - a). In the northern portion of Tract 1 east of Buildings 4 and 5
  - b). In the central area of Tract 1 east of Building 1
  - c). On Tract 2
- 2). Samples from all groundwater monitoring wells shall be analyzed for TAL-Metals, VOCs and SVOCs. In addition, the groundwater sample from the well installed in central area of Tract 1 shall be analyzed for the full TAL/TCL parameters.
- 3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the South Carolina State Primary

Drinking Water Regulations, R.61-58, or, if not specified in R.61-58, to the Regional Screening Tables values for "Tapwater."

G. Evaluate and control potential impacts to indoor air:

- 1). CFD shall evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface. The Department will use a modified Johnson and Ettinger Model to determine "Significant concentrations" based on representative soil and/or groundwater quality results reflective of the Property. The model will be constrained towards predicting commercial exposures consistent with the building construction on the Property.
  - a). CFD will assess the vapor intrusion pathway as needed and to the satisfaction of the Department. Environmental data collection may include groundwater, soil gas and indoor air sampling and analysis. Existing and new environmental data will be compared to US EPA-OSWER Vapor Intrusion Screening Levels (or supplemental EPA guidance) for the commercial exposure scenario. Appropriate site-specific soil gas to indoor air attenuation factors, and inhalation pathway exposure parameters may be used to calculate site-specific screening values for the Property.
  - b). The Department may allow CFD to implement vapor intrusion control measures in lieu of the above evaluation, or use alternative evaluation methods that, in the Department's sole discretion, offer a similar degree of data usability.
- 2). Based on the results of the vapor intrusion evaluation above and at the request of the Department, CFD shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the measured indoor air concentration exceeds a  $10^{-6}$  risk calculated for occupational exposure (40 hrs/wk, 50 wk/yr, 25 yrs). The Department shall give reasonable

consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.

H. Institute reasonable Contamination control measures:

- 1). CFD shall stabilize or remove from the Property any Segregated Sources of Contamination that have not yet released all contents to the environment.
  - a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.
  - b). CFD shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.
- 2). CFD shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property
  - a). Corrective measures shall be required for Waste Materials and Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure.
  - b). The corrective measures shall be proposed in a Corrective Measures Plan to be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property. Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the Contamination
  - c). CFD may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, CFD shall submit for Department approval, an overview of risk assessment assumptions including identification of contaminant exposure routes, the type and duration of

possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.

- d). Upon completion of any corrective measures, CFD shall provide a Corrective Measures Report to document satisfactory completion of the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.
- e). In the event that corrective measures include engineering controls that must be maintained or monitored during future use of the Property, a Site Management Plan may be required by the Department. If required, the Site Management Plan shall identify procedures for management of contaminated media that may be encountered as a result of any disturbance of the engineering controls, and for repair or replacement of the engineering controls.

I. Monitor and/or abandon the monitoring wells:

- 1). CFD shall implement a groundwater-monitoring program if required by the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.
- 2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
- 3). CFD shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

HEALTH AND SAFETY PLAN

- 5. CFD shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in



the form of one hard copy and one electronic copy of the Health and Safety Plan on compact disk (in .pdf format). CFD agrees that the Health and Safety plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by CFD.

#### PUBLIC PARTICIPATION

6. CFD and the Department will encourage public participation to implement this Contract as follows:

- A. The Department will provide notice, seek public comment, and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. §44-56-750 upon signature of this Contract by CFD.
- B. CFD shall erect a sign at major entrances onto the Property or other locations routinely accessible by the public. The sign(s) shall be erected no later than one day after the Department's public announcement about the Contract in a newspaper of general circulation in the community.
  - 1). The sign will state "Voluntary Cleanup Project by Cigar Factory Development, LLC under Voluntary Cleanup Contract 14-6251-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of CFD. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432".
  - 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.

- 3). CFD shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the signs. The photographs shall be submitted to the Department within 10 days of erecting the sign.
- 4). CFD agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). CFD shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, CFD shall restore the sign within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

#### PROGRESS UPDATES

7. CFD shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within 60 days of the work plan approval and semi-annually thereafter.
  - A. The updates may be in summary letter format, but should include information about:
    - 1). The actions taken under this Contract during the previous reporting period;
    - 2). Actions scheduled to be taken in the next reporting period;
    - 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,
    - 4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

- B. The Department's project manager may allow an extended schedule between updates based on case specific conditions.

#### SCHEDULE

8. CFD shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in implementation of the response actions, the Department may require implementation of reasonable interim measures to stabilize Contamination or prevent unacceptable exposures. CFD shall implement the interim measures in accordance with a Department-approved plan.

#### DECLARATION OF COVENANTS AND RESTRICTIONS

9. CFD or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Property if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract. Contaminant levels acceptable for unrestricted use shall be the Screening Levels for Resident Soil as specified in the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites for soil, and the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58 for groundwater. The recorded Declaration shall be incorporated into this Contract as an Appendix and shall be implemented as follows:

- A. The Department shall prepare and sign the Declaration prior to providing it to CFD. An authorized representative of CFD or its Beneficiaries shall sign the Declaration within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.

- B. CFD or its Beneficiaries shall record the executed Declaration with the Registrar of Deeds or Mesne Conveyance for the county where the Property is located.
- C. CFD or its Beneficiaries shall provide a copy of the recorded Declaration to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declaration has been recorded.
- D. In the event that Contamination exceeds levels acceptable for unrestricted use (Regional Screening Levels for residential use) on a portion of the Property, CFD or its Beneficiaries may create a new parcel of that portion of the property that will be subject to the Declaration.
- E. The Declaration shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Declaration.
- F. The Declaration shall reserve a right of entry and inspection for CFD or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.
  - 1). CFD or its Beneficiaries shall ensure that the restrictions established by the Declaration remain on any subdivided property that is subject to the Declaration.
  - 2). CFD or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declaration regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.

- G. The Declaration shall provide that the Department has an irrevocable right of access to the Property after CFD acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight. The Department agrees such access will occur during normal business hours and that CFD, its designee, successor and assigns shall have the right to accompany Department personnel or representatives while on the Property.
- H. CFD or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Declaration to the Department. The report shall be submitted by May 31<sup>st</sup> in a manner and form prescribed by the Department.
- I. The Department may amend the Declaration in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. An amendment to the Declaration shall be duly executed and recorded using procedures similar to those detailed above.

#### NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the

term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date received as shown on the receipt; 3) Commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or, 4) hand delivery to the other party.

A. All correspondence, notices, work plans, and reports shall be submitted to:

Angela Gorman  
Bureau of Land and Waste Management  
2600 Bull Street  
Columbia, South Carolina 29201

B. All correspondence and notices to CFD shall be submitted to CFD's designated contact person who as of the effective date of this Contract shall be:

James M. Weaver, Jr.  
950 Joseph E. Lowery Blvd., Suite 18  
Atlanta, GA 30318

#### FINANCIAL REIMBURSEMENT

11. CFD or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C.Code Ann. §44-56-750 (D). The oversight costs shall include the direct and

indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments initiated by CFD or its designee, successors or assigns thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to CFD on a quarterly basis. All costs are payable within thirty (30) days of the Department's invoice submitted to:

James M. Weaver, Jr.  
950 Joseph E. Lowery Blvd., Suite 18  
Atlanta, GA 30318

- A. Failure to submit payment for costs within sixty (60) days upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to paragraph 16 herein.
- B. Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to paragraph 16 herein.

#### ACCESS TO THE PROPERTY

- 12. CFD agrees the Department has an irrevocable right of access to the Property for environmental response matters after CFD acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight. The Department agrees that such access will occur during normal business hours and that CFD, its designee, successor and assigns shall have the right to accompany Department personnel or representative while on the Property.

### CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

13. A Certificate of Completion shall be issued to CFD or its Beneficiaries for the Property under this Contract as follows:

- A. CFD or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.
- B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the Certificate of Completion with its covenant not to sue upon determining that CFD or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. § 44-56-710 through 760 (as amended).
- C. The Department may issue a Provisional Certificate of Completion if the substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.
  - 1). A Provisional Certificate of Completion will include specific performance standards that CFD or its Beneficiaries shall continue to meet.
  - 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if CFD or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.



#### ECONOMIC BENEFITS REPORTING

14. CFD or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. CFD shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

#### CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations and protections of this Contract apply to and inure to the benefit of the Department, CFD, and its Beneficiaries as set forth below. The following stipulations apply to ensure the transition of all obligations and protections to successive Beneficiaries for any portion of the Property:
- A. CFD or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.
  - B. CFD and its Beneficiaries shall not allow residential occupancy on any portion of the Property prior to obtaining the Certificate of Completion or a Provisional Certificate of Completion specific to that portion of the Property allowing residential occupancy.
  - C. If the Certificate of Completion has not been issued, CFD or its Beneficiaries shall request approval from the Department prior to transferring the obligations and protections of this Contract to a new person or entity. The Department shall

not unreasonably withhold its approval upon receipt of a Non-Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:

- 1). Is not a Responsible Party for the Site;
- 2). Has sufficient resources to complete the activities of this Contract;
- 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract,
- 4). Will assume the protections and all obligations of this Contract; and
- 5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.

D. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract, CFD or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty days after the effective date of the ownership change or other possessory transfer of the Property.

- 1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.
- 2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

- E. If a Certificate of Completion has been issued and the Property is not subject to a Declaration or other continuing obligation pursuant to this Contract, no notification is required.

#### CONTRACT TERMINATION

16. CFD, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:

- A. The Department may not terminate this Contract without cause and before termination, shall provide CFD or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:
- 1). Failure to complete the terms and conditions of this Contract;
  - 2). Change in CFD's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
  - 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;
  - 4). Failure of CFD or its Beneficiaries to implement appropriate and reasonable response actions for additional Contamination or releases caused by CFD or its Beneficiaries;
  - 5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;
  - 6). Failure by CFD or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or,
  - 7). Failure by CFD or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of CFD's or its Beneficiaries' marketing

efforts, regional economic conditions, and other pertinent information on the Property.

- B. Should CFD or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by CFD or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.
- C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.
- D. Termination of this Contract by any party does not end the obligations of CFD or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Payment for such costs shall become immediately due.
- E. Upon termination, the protections provided under this Contract shall be null and void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders, parents, subsidiaries, , and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did not participate in the actions giving rise to the termination.

#### ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. CFD and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

- A. Effective on the date this Contract is first executed by the Department:
- 1). Protection from contribution claims under CERCLA Section 113.42 U.S.C. § 9613 and § 44-56-200, et seq.
  - 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
  - 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.
- B. Effective on the date the Certificate of Completion is issued by the Department.
- 1). The Department's covenant not to sue CFD and its Beneficiaries for Existing Contamination but not for any Contamination, releases and consequences caused or contributed by CFD or its Beneficiaries.
  - 2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.
- C. These Protections and Benefits do not apply to any Contamination, releases, and consequences caused or contributed by CFD or its Beneficiaries. The Department retains all rights under State and Federal laws to compel CFD and its Beneficiaries to perform or pay for response activity for any Contamination, releases and consequences caused or contributed by CFD or its Beneficiaries.

#### RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than CFD and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than CFD and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions

that may be taken or be required by the Department in exercising its authority under State and Federal law.

#### RESERVATION OF RIGHTS BY CFD

19. CFD retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. CFD and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute. However, CFD and its Beneficiaries agree to undertake the requirements of this Contract.

#### BURDEN OF PROOF

20. CFD and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by CFD or its Beneficiaries. CFD and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered Contamination. For purposes of this clause, newly discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing Contamination.

#### LIMITATION OF CLAIMS BY CFD AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, CFD and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the Department's willful breach of this Contract.

SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
CONTROL**

BY:

DATE:

\_\_\_\_\_  
Daphne G. Neel, Chief  
Bureau of Land and Waste  
Management

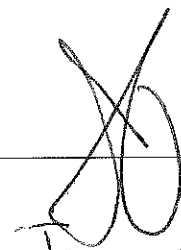
DATE:

\_\_\_\_\_  
Reviewed by Office of General Counsel

**CIGAR FACTORY DEVELOPMENT, LLC**

BY:

DATE:

\_\_\_\_\_  
  
James M. Weaver, Jr / Manager  
\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
2-26-14

# APPENDIX A

Cigar Factory Development, LLC

Application for Non-Responsible Party Voluntary Cleanup Contract

February 24, 2014





## Non Responsible Party Application for Voluntary Cleanup Contract

### I. Applicant Information

1. Applicant is a: ☒ Single Entity ☐ Co-Entity (Each Co-Entity must complete items 1-8)
2. Applicant Type: ☐ Private Individual /Sole Proprietorship ☒ For-profit Business (Corp., Partnership, etc.) ☐ Tax-Exempt Trust/ Corporation/ Organization ☐ Government / Other Public Funded Entity

3. Applicant's Legal Name Cigar Factory Development, LLC

#### 4. Contract Signatures for this Applicant

##### a. Authorized Signatory

James M. Weaver, Jr.	Manager	jay@wwcompany.com
Name	Title	Email
950 Joseph E. Lowery Blvd., Suite 18	404-849-4824	404-233-1411 x104
Address	Phone1	Phone2
Atlanta	GA	30318
City	State	Zip

##### b. Other Signatories ☒ None

Name	Title	Phone	Email	Signature Required On Contract?
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>

#### 5. Physical Location of Applicant's Headquarters

950 Joseph E. Lowery Blvd.	18
Street address	Suite Number
Atlanta	GA 30318
City	State Zip

#### 6. Mailing address: ☒ Same as Authorized Signatory Go to question 7

Contact person (if different from Authorized Signatory)	Title
Street Number or PO Box	Phone1 Phone 2
City	State Zip Email

#### 7. Company Structure Information ☐ Not-applicable (Local Government, Sole Proprietorship, Private Individual) - Go to Question #8

a. Company is Incorporated/ Organized/ Registered in South Carolina (state)

b. List all principals, officers, directors, controlling shareholders, or other owners with >5% ownership interest.

Attach additional pages if needed.

Name	Name
James M. Weaver, Jr.	

c. Is the applicant a subsidiary, parent or affiliate of any other business organization not otherwise identified on this form?

☐ Yes ☒ No

d. If yes, identify all affiliations:

#### 8. Non-Responsible Party Certification

By signature below, it is affirmed that no person or entity identified anywhere above:

1. Is a current owner of the property
2. Is a Responsible Party for the site
3. Is a parent, successor, or subsidiary of any Responsible Party or owner of the property
4. Has had any involvement with the property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program

Authorized Signatory

Co Signatories

## II. Property Information

### 9. Location

a. Physical Address 701 East Bay Street, Charleston, SC 29403

b. County Charleston

c. ☐ Property is outside any municipal boundaries    ☒ Property is inside the municipal limits of City of Charleston  
(town/city)

### 10. List any Companies or Site names by which the Property is known

Cigar Factory

### 11. Total Size of Property Covered by this Contract 4.37 Acres

### 12. How many parcels comprise the Property? Two

### 13. Current Zoning (general description)

LI - Light Industrial

### 14. a. Does the property have any above- or below-ground storage tanks? ☐ Yes ☒ No

b. If Yes, provide information on the number and capacity of the tanks, their contents, and whether they will be retained, or closed and/or removed.

<b>15. Parcel Information</b> <i>Complete the information below for each Parcel (attach additional sheets if needed)</i>			
<p>a. Tax Map Parcel#     <u>4590601040</u></p> <p>b. Acreage     <u>4.1 acres</u></p> <p>c. Current Owner     <u>TSO Cigar Factory, LLC</u></p> <p>d. Owner Mailing Address     <u>1401 Peachtree Street</u>  <u>Suite 400</u>  <u>Atlanta, GA 30309</u></p> <p>e. Contact Person for Access     <u>Melody Mann-Simpson</u></p> <p>f. Access Person's Phone #     <u>404-253-6349</u></p> <p>g. Is Parcel Currently Vacant?     <input type="checkbox"/> Yes     <input checked="" type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input checked="" type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input checked="" type="checkbox"/> Not operating since <u>2007</u>  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>	<p>a. Tax Map Parcel#     <u>4590604012/4590604013</u></p> <p>b. Acreage     <u>.27</u></p> <p>c. Current Owner     <u>TSO Cigar Factory, LLC</u></p> <p>d. Owner Mailing Address     <u>1401 Peachtree Street</u>  <u>Suite 400</u>  <u>Atlanta, GA 30309</u></p> <p>e. Contact Person for Access     <u>Melody Mann-Simpson</u></p> <p>f. Access Person's Phone #     <u>404-253-6349</u></p> <p>g. Is Parcel Currently Vacant?     <input checked="" type="checkbox"/> Yes     <input type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input checked="" type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input checked="" type="checkbox"/> Not operating since <u>1984</u>  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>		
<p>a. Tax Map Parcel#     _____</p> <p>b. Acreage     _____</p> <p>c. Current Owner     _____</p> <p>d. Owner Mailing Address     _____  _____</p> <p>e. Contact Person for Access     _____</p> <p>f. Access Person's Phone #     _____</p> <p>g. Is Parcel Currently Vacant?     <input type="checkbox"/> Yes     <input type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input type="checkbox"/> Not operating since _____  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>	<p>a. Tax Map Parcel#     _____</p> <p>b. Acreage     _____</p> <p>c. Current Owner     _____</p> <p>d. Owner Mailing Address     _____  _____</p> <p>e. Contact Person for Access     _____</p> <p>f. Access Person's Phone #     _____</p> <p>g. Is Parcel Currently Vacant?     <input type="checkbox"/> Yes     <input type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input type="checkbox"/> Not operating since _____  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>		
<p>a. Tax Map Parcel#     _____</p> <p>b. Acreage     _____</p> <p>c. Current Owner     _____</p> <p>d. Owner Mailing Address     _____  _____</p> <p>e. Contact Person for Access     _____</p> <p>f. Access Person's Phone #     _____</p> <p>g. Is Parcel Currently Vacant?     <input type="checkbox"/> Yes     <input type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input type="checkbox"/> Not operating since _____  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>	<p>a. Tax Map Parcel#     _____</p> <p>b. Acreage     _____</p> <p>c. Current Owner     _____</p> <p>d. Owner Mailing Address     _____  _____</p> <p>e. Contact Person for Access     _____</p> <p>f. Access Person's Phone #     _____</p> <p>g. Is Parcel Currently Vacant?     <input type="checkbox"/> Yes     <input type="checkbox"/> No</p> <p>h. Buildings on the parcel?     <input type="checkbox"/> None  (check all that apply)     <input type="checkbox"/> Demolished/Ruins  <input type="checkbox"/> Intact, To be demolished  <input type="checkbox"/> Intact, To be re-used</p> <p>i. Business/facility operations     <input type="checkbox"/> Never Operated on the parcel  <input type="checkbox"/> Not operating since _____  (approx date)  <input type="checkbox"/> In operation: nature of the business _____</p>		

### III. Property Redevelopment

16. Describe the intended re-use of the property:  
(attach additional sheets if necessary)

The historic buildings which have remained vacant since 2007 will be rehabilitated and contain retail on the ground floor and office uses above. The project will also be applying for state and federal tax credits as further incentive to complete the project.

17. a. Will the future use include any chemical processes, petroleum or chemical storage and handling, on-site waste disposal, or generate any hazardous substances? ☐ Yes ☒ No  
b. If Yes, identify the substances and discuss steps that will be taken to prevent their release to the environment.

18. Will redevelopment lead to the creation of permanent jobs on the property? ☒ Yes Anticipated Number estimated to be 500+  
☐ No

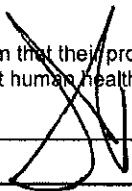
19. Projected Increase to the Tax Base as a result of this redevelopment: \$ 30 million

20. a. Will there be intangible benefits from this redevelopment such as:  
☐ LEED, Earth Craft, EnergyStar, or similar certification of Sustainable Development  
☒ Creation / Preservation of Green Space on the Property  
☐ Deconstruction/ Recycling of demolition or building debris  
☐ Other \_\_\_\_\_

b. Please Describe:

21. Anticipated date of closing or acquiring title to the property March / 5 / 2014

22. Redevelopment Certification  
By signature below, the applicant(s) affirm that their proposed use and activities will not knowingly aggravate or contribute to existing contamination or pose significant human health or environmental risks on the property.

  
Signature(s)

### IV. Project Management And Financial Viability (Co-Entitles, refer to instruction sheet)

23. Environmental Consulting Firm  
☐ None as of this application date

Terracon  
Company

<u>521 Clemson Road</u>	<u>Columbia</u>	<u>South Carolina</u>	<u>29229</u>
Address	City	State	Zip

<u>Chuck Clymer</u>	<u>236</u>	<u>803-212-0054</u>	<u>crcllymer@terracon.com</u>
Project Contact1	S.C PE/PG Reg. #	Phone1	Phone 2 email

<u>Project Contact 2</u>	<u>S.C PE/PG Reg. #</u>	<u>Phone1</u>	<u>Phone 2</u>	<u>email</u>
--------------------------	-------------------------	---------------	----------------	--------------

24. Legal Counsel (Optional)  
Haynsworth Sinkler Boyd

Firm

John Boyd

803-540-7731

Attorney

Phone1

Phone 2

1201 Main Street, 22nd Floor

Columbia

SC

29201

jboyd@hsblawfirm.com

Street Number or PO Box

City

State

Zip

email

25. Applicant's Billing Address ☒ Same as Contact person in #6 above Go to question #26

Financial Contact

Title

Company

Phone

Address

City

State

Zip

26. Financial Viability

By signature(s) below, the applicant agrees to:

1. Pay the Department's costs upon receipt of invoices for implementing the Voluntary Cleanup Program for this Property, and
2. Provide financial statements, if requested, to document financial viability to conduct the response actions on the Property.

☐ Waiver Requested (Check Box If applicable)

The applicant is a Local Government or qualified as a 501(c) Non-Profit Organization, and requests waiver of some Departmental costs of implementing this contract.

Signatures

V. Application Completion (The following are required along with this form. Check applicable boxes)

27. The Legal Description of the Property is attached as a: ☐ Plat Map ☒ Metes and Bounds Text ☐ Both

28. The Phase I Environmental Site Assessment Report is attached as a:

☒ New report completed in the past six months by Mid Atlantic Associates, Inc.

(Name of Environmental Firm)

☐ Older report updated in the past six months by \_\_\_\_\_

(Name of Environmental Firm)

29. Environmental sampling data and other reports: (check one)

☐ The Applicant is not aware of any environmental testing on the property

☒ The Applicant believes the Department already has all environmental data in its files on: Cigar Factory

☐ The Following reports are attached: \_\_\_\_\_ (Site Name)

Report Date

Report Name

Environmental Firm

April 8, 2005

Limited Site Investigation

Terracon Consultants, Inc.

January 21, 1999

Phase II ESA

Turner Hart & Hickman

January 1989

Phase II ESA

Geraghty & Miller

30. Mailing addresses of Former Owners, Operators and other Potentially Responsible Parties: (check one)

☐ Enclosed with this Application as an Attachment

☒ Will be submitted along with (or before) the signed contract

31. The applicants attest by signature below that this application is accurate to their best knowledge. Furthermore, the applicants request DHEC evaluate the Property for inclusion in the Brownfields Voluntary Cleanup Program and draft a Non-Responsible Party Contract for the Property.

Signature(s)

This Section for Department Use Only

Assigned File Name		
Eligible for NRP Contract	Y N	
Assigned File Number		
Assigned Contract Number		